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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,314	12/23/2003	Reiki Watanabe		5573

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EXAMINER
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KACKAR, RAM N

ART UNIT	PAPER NUMBER
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1792

MAIL DATE	DELIVERY MODE
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04/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/743,314	<b>Applicant(s)</b> WATANABE, REIKI	
	<b>Examiner</b> Ram N. Kackar	<b>Art Unit</b> 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-25 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-25 and 32 is/are rejected.
- 7) ☒ Claim(s) 33-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-25 and 32-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this instance the limitation “a rotary drive for rotating the rotor, thereby alternately bringing the vent hole or vent notch into communication with the gas discharge port for discharge of a reactive gas onto a substrate supported by the substrate holder and closing the at least one gas discharge port” is indefinite since it appears that the gas discharge port is closed while still in communication with vent hole.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

- A. Claims 15 and 21-24

Claims 15 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,991,934 to Walton et al. (“Walton”).

Walton teaches a vessel having at least one fluid discharge port 20; a substrate holder 32 within the vessel 10 for supporting a substrate thereon; and a rotor 22 provided between the substrate holder and a side wall of the vessel, rotatably mounted for rotation around the substrate holder and having a vent hole or vent notch 26; and a rotary drive for rotating the rotor, thereby alternately bringing the vent hole or vent notch into communication with the fluid discharge port for discharge of a fluid onto a substrate supported by the substrate holder and closing the at least one fluid discharge port. (See, for example, Fig. 6, 7). Walton further teaches processing fluid and fluid ports. (See, for example, col. 1, lines 12-28).

Regarding the limitation substrate “separately from the substrate holder” It is noted that substrate holder 32 appears separate from the rotor 22.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to utilize gas and gas discharge ports with the teachings of Walton

The suggestion/motivation would have been that fluids include gases and the teachings of Walton are not limited to liquids.

For claim 21, Walton teaches means for adjusting pressure and suppressing pressure variations. (See, for example, col. 2, lines 34-40).

Regarding claim 22, Walton teaches the substrate holder 32 is supported by an axially extending stem 24 defining a central axis, and the substrate holder is rotated around the central axis. (See, for example, Fig. 7).

For claim 23, Walton teaches means for heating 41 the substrate supported on the substrate holder. (See, for example, Fig. 6).

Regarding claim 24, Walton teaches exhaust means for reducing pressure inside of the vessel. (See, for example, Fig. 6).

B. Claims 16 and 17

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walton as applied to claim 15 above, and further in view of US 2003/0079686 to Chen et al. ("Chen").

Regarding claim 16, Walton teaches the vessel has a plurality of discharge ports 20. (See, for example, Fig. 2).

Walton does not teach that the plurality of discharge ports include a reaction gas discharge port and a purge gas discharge port.

Chen teaches that atomic layer deposition involves sequential gas pulses, such as a first reactant gas pulse, followed by a purge gas pulse, followed by a second reactant gas pulse, and then a purge gas pulse. (See, for example, para. [0007]).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have reaction gas and purge gas discharge ports as the ports in Walton.

The suggestion/motivation would have been that Walton teaches pulsing of fluids through discharge ports, and reaction gases and purge gases are pulsed in atomic layer deposition.

For claim 17, Chen teaches the alternating introduction of reaction gases and purge gases (see, for example, para. [0007]) while Walton teaches multiple discharge ports around a circumference of the vessel (see, for example, Fig. 2). It would have been obvious to alternately arrange reaction gas discharge ports and purge gas discharge ports around a circumference of the vessel in order to introduce the gases in the proper sequence.

C. Claims 18-20, 25 and 32

Claims 18-20, 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walton as applied to claim 15 above, and further in view of US 6,288,465 to Suzuki et al. (“Suzuki”).

Regarding claim 18, Walton teaches an upper inner surface of a side wall of the vessel has a flat shape, and an upper outer surface of the rotor has a flat shape in conformity with the flat shape of the side wall of the vessel. (See, for example, Fig. 6).

Walton does not teach a floating gas.

Suzuki teaches at least one floating gas discharge port 48a, and the rotating body 41 is floated by gas introduced through the at least one floating gas discharge port so as to form a space between the upper inner surface of the side wall of the vessel and the upper outer surface of the rotor. (See, for example, Fig. 19).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate floating gas into the vessel in Walton.

The suggestion/motivation would have been that it is well known in the art to use gas bearings to assist in rotation. (Suzuki, col. 1, line 17 – col. 2, line 16).

For claim 19, Suzuki teaches a plurality of floating gas discharge ports 48a around a circumference of the inner surface of the side wall of the vessel. (See, for example, Fig. 19).

Regarding claim 20, Suzuki teaches the floating gas exhausted via an exhaust port that is provided at the inner surface of the side wall of the vessel. (See, for example, Fig. 19).

For claim 25, Suzuki teaches control means 57 for adjusting partial pressure of the floating gas (See, for example, Fig. 19) while Walton teaches means for controlling direction of rotation and rotational speed of the rotor (See, for example, col. 2, lines 48-57).

Regarding claim 32 the shape of the rotor was a matter of choice.

It was held in *re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) that the shape was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular shape was significant. (Also see MPEP 2144.04(d)).

### ***Allowable Subject Matter***

3. Claims 33 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

4. Applicant's arguments filed 12/10/2007 have been fully considered but they are not persuasive. Applicant's arguments regarding new limitations are addressed in the rejection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ram N. Kackar whose telephone number is 571 272 1436. The examiner can normally be reached on M-F 8:00 A.M to 5:P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on 571 272 1435. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1792

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ram N Kackar/

Primary Examiner, Art Unit 1792